

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEX DEJESUS,

Plaintiff,

-against-

STEPHANIE RUDOLPH, Commissioner of
Human Rights, et al.,

Defendants.

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/20/2020

19-CV-4480 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On April 20, 2020, Defendants filed a motion to dismiss the amended complaint. (Doc. 20.) Under Federal Rule of Civil Procedure 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. However, Plaintiff has neither amended his operative complaint in response to Defendants' motion to dismiss nor opposed the motion. It is well established that a "court may, and generally will, deem a claim abandoned when a plaintiff fails to respond to a defendant's arguments that the claim should be dismissed." *Tribble v. City of New York*, No. 10 CIV. 8697 JMF, 2013 WL 69229, at *3 (S.D.N.Y. Jan. 3, 2013) (internal quotation marks omitted); *see also Robinson v. Fischer*, No. 09 Civ. 8882(LAK)(AJP), 2010 WL 5376204, at *10 (S.D.N.Y. Dec. 29, 2010) (collecting cases).

On May 20, 2020, I entered an Order directing Plaintiff to either file an amended complaint or file a memorandum of law in opposition to Defendants' motion to dismiss no later than May 29, 2020. Plaintiff was warned in that Order that failure to amend the operative complaint or oppose Defendants' motion would result in dismissal of this action for failure to

prosecute. After granting Plaintiff an extension of the deadline to respond to Defendants' motion to dismiss, Plaintiff still failed to comply with my May 20, 2020 Order. Furthermore, counsel for Plaintiff represented during two separate phone calls with chambers staff that he would file a status update, but counsel failed to do so.

Accordingly, on July 13, 2020 I entered an additional Order directing Plaintiff to file an amended complaint or file a memorandum of law in opposition to Defendants' motion to dismiss no later than July 17, 2020. In that Order I warned Plaintiff that failure to amend the operative complaint or oppose Defendants' motion would result in dismissal of this action for failure to prosecute. Plaintiff has still not complied with the July 13, 2020 Order or my previous orders.

Accordingly, it is hereby:

ORDERED that this case is dismissed for failure to prosecute in accordance with Federal Rule of Civil Procedure 41(b). The Clerk is directed to terminate this case.

SO ORDERED.

Dated: July 20, 2020
New York, New York



Vernon S. Broderick
United States District Judge